

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #: \_\_\_\_\_  
DATE FILED: 1/28/2019

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ALLISON NAVAR, et al.  
Plaintiff(s), : 18 Civ. 10476 (LGS)  
-v-  
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Walsh Construction Company II, LLC, et al. Defendant(s).  
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CIVIL CASE  
MANAGEMENT PLAN  
AND SCHEDULING  
ORDER

LORNA G. SCHOFIELD, United States District Judge:

This Civil Case Management Plan is submitted by the parties in accordance with Fed. R. Civ. P. 26(f)(3).

1. All parties [consent \_\_\_\_\_ / do not consent ] to conducting all further proceedings before a United States Magistrate Judge, including motions and trial. *See* 28 U.S.C. § 636(c). The parties are free to withhold consent without adverse substantive consequences. *[If all parties consent, the remaining paragraphs need not be completed.]*
2. The parties [have  / have not \_\_\_\_\_] conferred pursuant to Fed. R. Civ. P. 26(f).
3. This case is governed by one of the following sets of rules, and the parties' proposed dates in this order have been adjusted accordingly.
  - a. An employment case governed by the Initial Discovery Protocols for Employment cases? [http://www.nysd.uscourts.gov/cases/show.php?db=judge\\_info&id=713](http://www.nysd.uscourts.gov/cases/show.php?db=judge_info&id=713). [Yes \_\_\_\_\_ / No ]  
[Yes \_\_\_\_\_ / No ]
  - b. A case governed by Local Civil Rule 83.10, Plan for Certain § 1983 Cases Against the City of New York?  
<http://www.nysd.uscourts.gov/docs/mediation/Local%20Civil%20Rule%2083.10.Final.pdf>. [Yes \_\_\_\_\_ / No ]  
[Yes \_\_\_\_\_ / No ]
  - c. A patent case subject to the Local Patent Rules and the Court's Individual Rules?  
[http://www.nysd.uscourts.gov/rules/Standing\\_Order\\_In\\_re\\_Local\\_Patent\\_Rules.pdf](http://www.nysd.uscourts.gov/rules/Standing_Order_In_re_Local_Patent_Rules.pdf) and  
[http://nysd.uscourts.gov/cases/show.php?db=judge\\_info&id=1491](http://nysd.uscourts.gov/cases/show.php?db=judge_info&id=1491)  
[Yes \_\_\_\_\_ / No ]

d. A wage and hour case governed by Initial Discovery Protocols for Fair Labor Standards Act?  
[http://nysd.uscourts.gov/cases/show.php?db=judge\\_info&id=1492](http://nysd.uscourts.gov/cases/show.php?db=judge_info&id=1492) [Yes \_\_\_\_\_ / No x ]

4. Alternative Dispute Resolution/Settlement

a. Settlement discussions [have X / have not \_\_\_\_\_] taken place.

b. Counsel for the parties have discussed an informal exchange of information in aid of early settlement and have agreed to exchange the following:

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c. Counsel for the parties have discussed the use of the following alternate dispute resolution mechanisms for use in this case: (i) a settlement conference before a Magistrate Judge; (ii) participation in the District's Mediation Program; and (iii) retention of a private mediator. Counsel for the parties propose the following alternate dispute resolution mechanism for this case:

N/A - Parties attempted mediation unsuccessfully in fall 2018.

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d. Counsel for the parties recommend that the alternate dispute resolution mechanism designated in paragraph 4(c) be employed at the following point in the case (e.g., within the next 60 days; after the deposition of plaintiff is completed (specify date); after the close of fact discovery):

N/A

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e. **The use of any alternative dispute resolution mechanism does not stay or modify any date in this Order.**

5. No additional parties may be joined after Plaintiffs' motion for conditional collective certification is resolved without leave of Court.

6. Amended pleadings may be filed without leave of Court ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ in accordance with Federal Rule of Civil Procedure 15.

7. Initial disclosures pursuant to Fed. R. Civ. P. 26(a)(1) shall be completed no later than 14 days from the date of this Order. [Within 14 days of the parties' Rule 26(f) conference, absent exceptional circumstances.]

8. Fact Discovery

- a. All fact discovery regarding the joint employer issue shall be completed by 3/11/2019.
- b. Non-testamentary fact discovery will commence 5/5/2019 and shall be completed by 9/2/2019.
- c. Within seven calendar days of an Order of this Court resolving Defendants' motion(s) to sever, the parties shall file a letter on ECF proposing a schedule for testamentary discovery
- d. Initial requests for production of documents pursuant to Fed. R. Civ. P. 34 shall be served by XXXXX 2/14/2019.
- e. Responsive documents shall be produced by XXXXX 3/14/2019.  
Do the parties anticipate e-discovery? [Yes X / No       ]
- f. Interrogatories pursuant to Fed. R. Civ. P. 33 shall be served by  
XXXXX 2/14/2019.

~~e. Depositions pursuant to Fed. R. Civ. P. 30, 31 shall be completed by  
5/24/2019~~

- g. Requests to admit pursuant to Fed. R. Civ. P. 36 shall be served by  
XXXXX 5/14/2019.
- h. Any of the deadlines in paragraphs 8(d) through 8(g) may be extended by the written consent of all parties without application to the Court, provided that all non-testamentary fact discovery is completed by the date set forth in paragraph 8(b).

9. Expert Discovery [if applicable]

- a. Anticipated types of experts if any:  
Defendants anticipate the potential need for expert statistical discovery on pay equity issues.  
Plaintiffs may choose to identify a statistical expert. Should Plaintiffs do so, Defendants will have 30 days to identify any responsive experts.
- b. If you have identified types of experts in question 9(a), all expert discovery shall be completed no later than XXXXXX 45 days after the close of testamentary fact discovery.  
*[Within 45 days from the date in paragraph 8(a), i.e., the completion of all fact discovery, absent exceptional circumstances.] Omit if you have not identified types of experts.*  
30 days after the close of testamentary fact discovery
- c. If you have identified types of experts in question 9(a), by XXXXXX *[no later than one month before the date in paragraph 8(a), i.e., the completion of all fact discovery]* the parties shall meet and confer on a schedule for expert disclosures, including reports, production of underlying documents and depositions, provided that (i) expert report(s) of the party with the burden of proof shall be due before those of the opposing party's expert(s); and (ii) all expert discovery shall be completed by the date set forth in paragraph 9(b).

10. This case [is X / is not \_\_\_\_\_] to be tried to a jury.
11. Counsel for the parties have conferred and their present best estimate of the length of trial is 2 weeks.
12. Other issues to be addressed at the Initial Pretrial Conference, including those set forth in Fed. R. Civ. P. 26(f)(3), are set forth below:

Timeline for Motion for Certification/Conditional Certification of Class/Collective Action

Timeline for Motion to Decertify Class/Collective Action

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13. Status Letters and Conferences

- a. By 3/12/19 [60 days after the commencement of fact discovery], the parties shall submit a joint status letter, as outlined in Individual Rule IV.A.2.
- b. By 9/26/19 [14 days after the close of fact discovery], the parties shall submit a joint status letter, as outlined in Individual Rule IV.A.2 and, in the event that they have not already been referred for settlement discussions, shall also advise the Court whether or not they request a referral for settlement discussions as provided in Paragraph 4(c) above.  
a date to be determined by the Court
- c. On XXXXXXXXXXXXXXXXXXXXXX [usually 14 days after the close of all discovery], a pre-motion conference will be held for any anticipated dispositive motions, provided:
  - i. A party wishing to file a summary judgment or other dispositive motion shall file a pre-motion letter at least two weeks before the conference and in the form provided in the Court's Individual Rule III.A.1. Any party wishing to oppose shall file a responsive letter as provided in the same Individual Rule. The motion will be discussed at the conference.
  - ii. If no pre-motion letter is timely filed, this conference will be canceled and the matter placed on the Court's trial-ready calendar. The parties will be notified of the assigned trial-ready date and the filing deadlines for pretrial submissions. The parties are warned that any settlement discussions will not stay pretrial deadlines or the trial date.

15. Defendants shall file their consolidated motion to sever/12(b)(6) motion by April 1, 2019, Plaintiffs shall file their opposition by April 22, 2019, and Defendants shall file their reply by May 6, 2019.

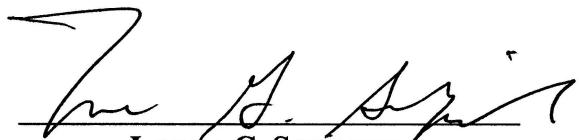
The parties shall jointly propose a briefing schedule for Plaintiffs' class/collective certification motion within seven calendar days of an order of this Court resolving Defendants' motion to sever.

This Order may not be modified or the dates herein extended, except as provided in paragraph 8(f)) or by further Order of this Court for good cause shown. Any application to modify or extend the dates herein, except as provided in paragraph 8(f), shall be made in a written application in accordance with the Court's Individual Rules and shall be made no less than 2 business days prior to the expiration of the date sought to be extended.

The Clerk of Court is directed to enter the dates under paragraphs 5, 6, 8(a), 9(b)-(c) and 13(a)-(c) into the Court's calendar.

SO ORDERED.

Dated: January 28, 2019  
New York, New York



**LORNA G. SCHOFIELD**  
**UNITED STATES DISTRICT JUDGE**

Counsel for the Parties:

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**Joseph & Kirschenbaum LLP**  
Attorneys for Named Plaintiffs, Proposed EPA  
Collective Action Plaintiffs, Proposed NY EPA  
Class, and proposed NYCHRL Class

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**Cuti Hecker Wang LLP**  
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**Kelley Drye & Warren LLP**  
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Littler Mendelson PC  
Attorneys for Defendants Skanska USA Civil Northeast, Inc.  
and Skanska USA Building, Inc.

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